IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2426 OF 2003

IN

FIRST APPEAL (ST) NO. 23012 OF 2001

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

R.G. Ketkar for the applicants.
A.R.Patil, AGP for respondent no.2.

CORAM: S.B. DESHMUKH, J.

3rd October, 2006.

P.C. :

1. Heard the learned counsel for the applicant as well as learned AGP who appears for respondent no.2.

2. None appears for the other respondents. By this application the applicant is seeking condonation of delay to the extent of about five

years. The respondent no.1 Dugad Family Trust through its trustees had filed an application under Section 18 of the Land Acquisition Act, 1894, before the Special Land Acquisition Officer seeking enhancement of amount of compensation. The said application was transferred to the Learned District Judge, Pune and in turn to the Learned Extra Joint District Judge, Pune. It was Land Acquisition Reference No. 152 of 1988. Copy of the judgment of the reference court is annexed with the appeal. It is manifest from the copy of the present application that the present applicant was not made party to the said Land Reference Application by the original claimant. It appears that the said L.A.R.No. 152 of 1988 was heard and disposed off by the reference court by the judgment and award passed on August

31, 1996. According to the applicant, this award was put into execution and thereafter only, the applicant came to know regarding the judgment and award passed by the reference court. Thereafter an appeal challenging the said judgment and award is filed in this court alongwith this application seeking condonation of delay as well as Civil Application seeking leave to file appeal.

3. None appears for the original claimants. No reply is also filed on record on behalf of the original claimants. In my view, delay of about five years is properly explained and bonafide. Infact, the acquiring body is a necessary party to the proceedings / application, seeking enhancement of the amount of compensation. In this view of the

matter, delay occurred can be condoned in the interest of justice with the condition that the applicant shall deposit an amount of Rs.1,000/- with the Maharashtra Legal Services Authority within a period of 10 weeks from today.

4. In the result, Civil Application is allowed. Delay of about five years occurred in filing of First Appeal in this court is condoned subject to cost of Rs.1000/- to be deposited by the applicant directly with the Maharashtra Legal Services Authority within a period of 10 weeks from today.

5. It is made clear that in case of failure on the part of the applicant, in depositing the amount as noted above, the application shall be dismissed without reference to

this court.

6. Civil Application is partly allowed and disposed off in above terms.

sd/-

(JUDGE)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2425 OF 2003

IN

FIRST APPEAL (ST)NO. 23013 OF 2001

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

R.G. Ketkar for the applicants.
A.R.Patil, AGP for respondent no.2.

CORAM: S.B. DESHMUKH, J.

October 3, 2006.

P.C. :

1. Heard the learned counsel for the applicant.

2. Rule, returnable on 12.12.2006.

3. Learned AGP waives service for respondent no.2.

SD/-

(JUDGE)